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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,533	03/23/2004	Christopher Dilluvio	5362-000485	3428

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EXAMINER

MORROW, JASON S

ART UNIT PAPER NUMBER

3612

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/807,533

Applicant(s)

DILLUVIO, CHRISTOPHER

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23,25-33 and 35-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,12-15,28-33,35-37,39-42 and 44 is/are rejected.
- 7) ☒ Claim(s) 5,11,16-23,25-27,38,43 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

NOTE: This action is **NON-FINAL**.

1. The finality of the office action mailed 11/17/05 is withdrawn.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 6-10, 12, 14, 15, 28, 29, 30, 31, 33, 35-37, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Willard (US Patent 6,508,502).

Re claim 1, Willard discloses a retractable roof structural system for a vehicle body having quarter panel sections, the system comprising a retractable roof (12) operable between raised and stowed positions, a retraction mechanism (shown in figure 3) operable to move said retractable roof between said raised and stowed positions, a decklid (14) operable between first and second positions, said decklid allowing movement of said retractable roof between said raised and stowed positions when said decklid is in said second position, and said decklid covering at least a portion of said retractable roof when in said stowed position (as shown in figure 5) when said decklid is in said first position, and a structural member (see column 3, lines 51-58, the roll bar is a structural member) operable to provide structural support to and increase a

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stiffness of a vehicle body on which said retractable roof is utilized, said structural member being configured to be selectively coupled adjacent the opposing quarter panel sections (as shown in figure 2, the locking mechanisms 18 are adjacent quarter panel sections and thus the structural member must also be), and said structural member is uncoupled when said retractable roof is moving between said raised and stowed positions (the structural member is coupled to the tonneau cover and thus must move as recited by the claim), and said structural member extends across the vehicle in a cross-vehicle direction adjacent to at least one of a strut tower and a rear wheel housing when coupled.

Re claim 2, the structural member is attached to said decklid and moves with said decklid between said first and second positions (see column 3, lines 51-58).

Re claim 3, the retractable roof is a hard-top (column 3, line 3) retractable roof.

Re claim 6, a retaining mechanism (18) attached to said vehicle body between said opposing quarter panel sections, said retaining mechanism being operable to selectively couple said structural member to said vehicle body.

Re claim 7, Willard discloses an automotive vehicle comprising a retractable roof (12) operable between raised and stowed positions, and a moveable structural member (see column 3, lines 51-58) operable to selectively provide structural support and rigidity to a vehicle body on which said retractable roof is utilized, said structural member selectively coupled to said vehicle body between adjacent body panel structures of said vehicle body and extending in a cross-vehicle orientation above at least a portion of said retractable roof when in said stowed position (see figure 5, the structural member would be above 70 and therefore above a majority of the stored

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vehicle roof), and said structural member being uncoupled from said vehicle body when said retractable roof is moving between said raised and stowed positions.

Re claim 8, the decklid is operable between first and second positions (shown figures 2 and 4), the decklid when in said first position covering at least a portion of said retractable roof when in said stowed position, and said decklid allowing movement of said retractable roof between said raised and stowed positions when said decklid is in said second position.

Re claim 9, the structural member is coupled to said vehicle body when said decklid is in said first position and is uncoupled from said vehicle body when said decklid is in said second position (see column 3, lines 51-58).

Re claim 10, the structural member is coupled to said decklid and moves with said decklid between said first and second positions (see column 3, lines 51-58).

Re claim 12, the retractable roof is a hardtop retractable roof (see column 3, line 3).

Re claim 14, a retaining mechanism (72) is attached to said vehicle body between said adjacent body panel structures, said retaining mechanism being operable to selectively couple said structural member to said vehicle body.

Re claim 15, a retraction mechanism (shown in figure 6) is operable to move said retractable roof between said raised and stowed positions.

Re claim 28, Willard discloses a method of manufacturing a universal stowage area in an automotive vehicle for stowing a convertible roof and providing substantially an equivalent torsional rigidity to the stowage area regardless of the convertible roof being a soft-top or hard-top convertible roof, the method comprising positioning retaining mechanisms (72) in the stowage area of the automotive vehicle, attaching a moveable structural member (see column 3,

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lines 51-58) operable to engage with said retaining mechanisms to provide structural support and torsional rigidity to the storage area, and selectively securing said structural member to the stowage area of the vehicle with said retaining mechanisms and with said structural member extending in a cross-vehicle orientation in an upper half of the stowage area (Note the method is inherent to the structure of the invention).

Re claim 29, the method includes installing a second mechanism (shown in figure 4) in the stowage area that is operable to move said structural member between a first position (shown in figure 2) enabling said structural member to engage with said retaining mechanisms and a second position (shown in figure 4) disengaged from said retaining mechanism and allowing clearance for raising and stowing a convertible roof.

Re claim 30, the method includes securing a decklid panel (14) to said second mechanism that moves with said structural member between said first and second positions.

Re claim 31, the method includes installing a hard-top (see column 3, line 3) convertible roof system in the vehicle.

Re claim 33, Willard discloses a method of moving a retractable roof between a raised position covering a portion of a passenger compartment of a vehicle and a stowed position in a storage area of the vehicle, the method comprising disengaging a structural member (see column 3, lines 51-58) that extends in a cross-vehicle orientation across a front half of the storage area from a retaining mechanism (72) in said front half of the storage area and moving said structural member from a first position providing structural support and rigidity to the storage area to a second non-interfering position (shown in figure 4) that allows movement of the retractable roof between the raised and stowed positions, moving the retractable roof between the raised and

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stowed positions, and moving said structural member from said second position to said first position, and engaging said structural member with said retaining mechanism.

Re claim 35, the method includes securing said structural member to said retaining mechanism with a latch (74).

Re claim 36, the method includes securing said structural member to said retaining mechanism with a power pull down latch (as shown in figure 7, see also column 5 lines 3-8).

Re 37, the method includes securing said structural member to said retaining mechanism with a clamp (74).

Re claim 39, the structural member is moved along a sloped surface (the curved portions of 82 shown in figure 7) of the retaining mechanism to align the structural member with the retaining mechanism.

Re claim 40, the method includes moving a decklid panel (14) from a first position covering a portion of the storage area to a second non-interfering position (shown in figure 4) that allows movement of the retractable roof between the raised and stowed positions and includes moving said decklid panel from said second position to said first position.

Re claim 41, the method includes moving said structural member and said decklid panel in unison (see column 3, lines 51-58).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 13, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willard (US Patent 6,508,502) in view of Antreich (US Patent Application Publication 2003/0042751).

Willard discloses all of the limitations of the claims, as applied above, except for the retractable roof being a soft-top.

Antreich teaches the use of a soft-top in an alternative construction to a hard-top construction (see paragraph 0008, lines 6-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a roof, such as that disclosed by Willard, to be a soft-top roof, as taught by Antreich, in order to provide a different aesthetic appeal to different customers who may not like a hard top convertible.

6. Claims 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willard (US Patent 6,508,502) in view of Gotz et al. (US Patent 5,211,718).

Re claims 42 and 44, Willard discloses all of the limitation of the claims, as applied above, except for the structural support member having a pair of downwardly extending portions that extend from the cross-vehicle portion, the downwardly extending portions being substantially vertically oriented when in the engaged position.

Gotz et al. teaches the use of a structural support member (8) having a pair of downwardly extending portions (the legs of the U-shape) that extend from a cross-vehicle



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portion (the horizontal portion of 8), the downwardly extending portions being substantially vertically oriented when in the engaged position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a structural support member, such as that disclosed by Willard, to have a structural support member having a pair of downwardly extending portions that extend from a cross-vehicle portion, the downwardly extending portions being substantially vertically oriented when in the engaged position, as taught by Gotz et al., in order to construct the structural support member from a well-known and easily constructed shape.

#### *Allowable Subject Matter*

7. Claims 5, 11, 16-23, 25-27, 38, 43, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason S. Morrow  
Primary Examiner  
Art Unit 3612

February 22, 2006

  
**JASON MORROW**  
**PRIMARY PATENT EXAMINER**

2/22/06